

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

In the Matter of
Truth-in-Billing
and
Billing Format

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 98-170

TELIGENT, INC. PETITION FOR LIMITED WAIVER

Pursuant to Section 1.3 of the Commission's rules, Teligent, Inc. ("Teligent"), by its attorneys, hereby respectfully requests a limited waiver of Section 64.2001(c)¹ of the Commission's rules concerning certain truth-in-billing and billing format requirements until the first billing cycle in June 2000.

Pursuant to Section 1.3 of the Commission's rules, the Commission may waive any rule, in whole or in part, for good cause.²

Teligent is aware that the Commission's truth-in-billing and billing format rules have not yet become effective as a result in delay of approval by the Office of Management and Budget of the

¹ 47 C.F.R. § 64.2001(c) ("Where a bill contains charges for basic local service, in addition to other charges, the bill must distinguish between charges for which non-payment will result in disconnection of basic, local service, and charges for which non-payment will not result in such disconnection. The carrier must explain this distinction to the customer, and must clearly and conspicuously identify on the bill those charges for which non-payment will not result in disconnection of basic, local service. Carriers may also elect to devise other methods of informing consumers on the bill that they may contest charges prior to payment.").

² 47 C.F.R. § 1.3.

First Report and Order's information collections.³ However, the date for compliance with such rules is likely to be announced shortly and, given Teligent's inability to be in full compliance with certain aspects of the Commission's new rules until approximately nine more months, notwithstanding Teligent's diligent efforts to meet an earlier time frame, Teligent finds itself in the position of needing to seek a limited waiver of Section 64.2001(c) until no later than the first billing cycle in June 2000. By that date Teligent is certain, barring any currently unforeseen events, that it will be able to have its billing system in full compliance with the Commission's new rules.

In support of this limited waiver request, Teligent states as follows: Section 64.2001(c) requires that a carrier's bill distinguish between charges for which non-payment will result in disconnection of basic, local service, ("deniable") and charges for which non-payment will not result in such disconnection ("non-deniable"). The carrier's bill must explain this distinction to the customer, and clearly and conspicuously identify on the bill those charges for which non-payment will not result in disconnection of basic, local service. Teligent understands and agrees with the Commission's rationale for

³ See "Enforcement Division of the Common Carrier Bureau Announces Delayed Effective Date of Truth-in-Billing Rules in CC Docket 98-170," *Public Notice*, DA 99-1423 (rel. July 20, 1999).

adopting this requirement.⁴ Indeed, Teligent is making every reasonable effort to comply with this requirement as quickly as possible. However, because of the stage that Teligent's current billing system is in at this particular time, Teligent's billing software vendor informs it that the requisite deniable/non-deniable distinctions cannot become available on Teligent's customer's paper bills until the first billing cycle in June 2000 for the reasons set forth below.

Teligent presently maintains two billing formats: electronic (e-magineSM) and paper-based. Both formats derive their basic information from the same billing database, which has been developed by Teligent's software billing vendor and is currently undergoing substantial revisions. As a result, Teligent does not own the source code⁵ for its billing system and, therefore, cannot make software revisions to bill formats that require source code changes without development assistance from its billing vendor.

⁴ See Truth-in-Billing and Billing Format, CC Docket No. 98-170, First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-72 at ¶¶ 44-48 (rel. May 11, 1999).

⁵ Source code is "the textual form in which a program is entered into a computer." This is distinct from object code, which is "the 'executable' code of ones and zeros that provides a computer with instructions on what steps to perform." Kenneth W. Dam and Herbert S. Lin, eds., Cryptography's Role in Securing the Information Society, 360, 362 (1996).

Nearly a year ago, prior to the release of the Commissioner's new truth-in-billing rules, Teligent and its billing vendor began planning a comprehensive upgrade to its billing system, i.e., from Version 3.2.1 to a more sophisticated Version 3.6. Currently, Teligent's billing vendor is testing Version 3.6 and Teligent will begin to receive this new source code at the end of October 1999 and at regular intervals for two additional months. At that time, Teligent will begin the conversion process from Version 3.2.1 to Version 3.6 and begin testing the new source code. In anticipation of the Commission's new rules, this upgrade includes all of the features required by the Commission's truth-in-billing rules as well as many more features beneficial to the end-user. Teligent's billing vendor has indicated that because of the integrated nature of all of the changes involved in the upgrade, however, the earliest that customer paper bills will be able to reflect the upgrade changes is in the first billing cycle of June 2000 customer bills.

Teligent has been able to implement certain of the required billing changes on its own because they do not involve source code changes. In fact, Teligent's electronic billing system, which Teligent developed on its own, already is currently in full compliance with the Commission's truth-in-billing and billing format rules. Teligent itself was able to change its electronic billing format to identify and distinguish between deniable/non-deniable customer charges, to provide a toll-free number to contact Teligent with any questions or inquiries, to provide an on-line method of disputing charges, and to provide a clear,

brief, plain language description of each service rendered to the customer.

These revisions were accomplished through text changes to the electronic billing system rather than through source code changes to the billing database, thereby eliminating Teligent's need to rely on its billing software vendor to incorporate the changes. Unlike edits to the electronic system, however, revisions to Teligent's paper bills require changes to the billing system source code which is owned by Teligent's software vendor. Consequently, Teligent is unable to make those changes itself and must rely on its billing vendor for these revisions.

Every Teligent customer has the option of using an electronic billing format rather than or in addition to a paper billing format and, therefore, every Teligent customer has the ability to access a bill that currently complies fully with the Commission's truth-in-billing requirements. Some customers, however, still wish to receive a duplicate paper bill and some customers choose to receive their bills exclusively in paper format. Teligent does not want to force these customers to have to accept electronic billing formats if they remain more comfortable with paper formats, merely because Teligent's paper formats can not be completely compliant with all the Commission's rules until the first billing cycle in June 2000.

The paper bills currently do provide a toll-free number for customer billing disputes and brief, clear, plain language descriptions of services rendered in accordance with the

Commission's truth-in-billing and billing format rules. However, they currently do not identify and distinguish between deniable and non-deniable charges which is part of the integrated upgrade scheduled for completion no later than the first billing cycle in June 2000.

The reason for the seemingly lengthy nine month period to complete this upgrade is largely attributable to the intervening "year 2000" (Y2K) change that occurs in the next four months and Teligent's compliance efforts relative thereto. Teligent, like most telecommunications companies, has frozen all software changes affecting its operational systems from sixty days prior to January 1, 2000 until sixty days following January 1, 2000 to ensure the complete reliability of its operations after January 1, 2000. As the Commission is aware, this freeze is intended to eliminate unintended Y2K compliance failures that software changes may otherwise present. This freeze and the corresponding focus of Teligent's engineers on Y2K compliance diverts technical resources from development-type software changes, including the requisite revisions to its billing system.

While Teligent has investigated and tested the possibility of making in-house table changes to the customer paper bills to identify and distinguish between deniable and non-deniable charges for the interim period, this process proved so unwieldy and unreliable that Teligent concluded that it is not a viable option.

As a result, Teligent seeks a limited waiver until no later than the first billing cycle in June 2000 to comply with Section 64.2001(c) in its paper customer bills. The Commission has authority to waive its rules if special circumstances warrant and such waiver will serve the public interest.⁶ Teligent submits that ensuring operational Y2K compatibility is a special circumstance and jeopardizing those compliance efforts by requiring strict compliance with Section 64.2001(c) of the Commission's rules would be contrary to the public interest. Moreover, given that Teligent will maintain an operational electronic billing system that will provide all its customers with the requisite deniable/non-deniable billing information upon inquiry, the Commission's public interest goals underlying Section 64.2001(c) will continue to be achieved if the limited waiver is granted.

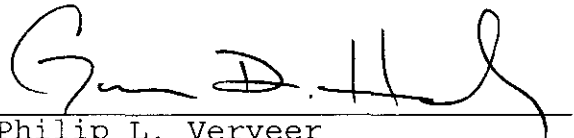
⁶ See Northeast Cellular Telephone Co. v. F.C.C., 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing WAIT Radio v. F.C.C., 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

For the foregoing reasons, Teligent respectfully requests a limited waiver of Section 64.2001(c) of the Commission's rules until the first billing cycle in June 2000 as applied to Teligent's paper bills.

Respectfully submitted,

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